

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

MICHAEL ALONZA RUFUS,

Petitioner,

v.

WARDEN RALPH KEMP,

Respondent.

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Case No. CV413-058

REPORT AND RECOMMENDATION

Michael Alonza Rufus is currently confined in Jenkins Correctional Center in Millen, Georgia. (Doc. 1.) He has filed a second habeas petition that again attacks his state conviction in the Superior Court of Walton County, Georgia. (*Id.*); see *Rufus v. Chapman*, No. CV412-126 (S.D. Ga. June 13, 2012).¹

Walton County lies within the jurisdiction of the United States District Court for the Middle District of Georgia. 28 U.S.C. § 90(b)(1).

¹ The Clerk mistakenly filed this as a Savannah Division case, but Millen lies within this Court's Statesboro Division, not the Savannah Division. 28 U.S.C. § 90(c)(6). That mistake is of no moment, however, as this action should be transferred to in the Middle District of Georgia.

Federal law permits a state prisoner's habeas petition to be filed in the district within which he was convicted or in the district within which he is confined. 28 U.S.C. § 2241(d); *Wright v. Indiana*, 263 F. App'x 794, 795 (11th Cir. 2008). Hence, both this Court and the Middle District concurrently hold jurisdiction over the case. But it is the long-standing policy and practice in the United States District Courts in this Circuit to cause all such petitions to be filed in or transferred to the district within which the state prisoner was convicted, since that will be the most convenient forum. *Mitchell v. Henderson*, 432 F.2d 435, 436 (5th Cir. 1970); see *Wright*, 263 F. App'x at 795 (citing *Byrd v. Martin*, 754 F.2d 963, 965 (11th Cir. 1985)). This practice also fosters an equitable distribution of habeas cases between the districts of this state.

In accordance with this customary practice, the Court concludes that the Middle District would be the better forum for resolving this matter. Hence, the Clerk should be **DIRECTED** to transfer this case to the Middle District of Georgia for all further proceedings. See 28 U.S.C. § 1404(a) (permitting a district court to transfer any civil action to another district or division where it may have been brought for the convenience of parties and witnesses and in the interest of justice).

Moreover, the Court recommends that Rufus be **ENJOINED** from filing further attacks upon his Walton County conviction in this District.

SO REPORTED AND RECOMMENDED this 21ST day of May, 2013.


UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA